

HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI

AND

HON'BLE SRI JUSTICE G. BHAVANI PRASAD

Writ Petition No.1043 of 2006

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Between:

The Mandal Revenue Officer,
Shamshabad Mandal,
R.R. District and another ... Petitioners

And

M/s. Dandu Agro Products Pvt. Ltd.,
Rep. by its Director G. Praveen Kumar,
S/o.G. Sivaramaraju,
Aged 30 years, Flat No.301,
Amrutha Business Complex,
Ameerpet, Hyderabad – 500 016 ... Respondent

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::ORDER::

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Counsel for the petitioners: Advocate General

Counsel for the respondent: None appeared

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January 25, 2006

Per G.S. Singhvi, CJ

In this petition, the petitioners have prayed for issuance of a writ in the nature of prohibition restraining Principal Senior Civil Judge, Ranga Reddy District to proceed with Original Suit No.1695 of 2005 filed by the respondent questioning the legality of notice dated 28-9-2005 issued by Mandal Revenue Officer, Shamshabad under Section 3 of the Andhra Pradesh Assigned Lands (Prohibition of Transfer) Act, 1977 (for short 'the Act').

The principal ground on which the petitioners have invoked the jurisdiction of this Court under Article 226 of the Constitution at the threshold of the proceedings of the civil suit is that the same is barred by Section 4 (2) of the Act.

Learned Advocate General made strenuous efforts to persuade us to entertain the writ petition by arguing that the very entertaining of the suit by the court below is uncalled for. He pointed out that notice dated 28-9-2005 issued by Mandal Revenue Officer, Shamshabad under Rule 3 of the Andhra Pradesh Assigned Lands (Prohibition of Transfer) Rules, 1977, which is under challenge in the suit filed in the Court of Principal Senior Civil Judge, Ranga Reddy District was preceded by the direction issued by this Court in a public interest litigation for resuming the assigned lands which were illegally transferred by the assignees and submitted that the trial Court should not have entertained the suit and passed order of temporary injunction.

Though the submission of the learned Advocate General appears to be attractive, we have not felt persuaded to accept the same. In our opinion, the petitioners, who are defendants in the suit filed by the respondent should have appeared in the Court of Principal Senior Civil Judge, Ranga Reddy District and filed reply to the application for injunction raising an objection to the very maintainability of the main suit, with a further prayer for decision on the jurisdictional aspect of the matter. In the event of an adverse order being passed by the concerned Court, the petitioners could legitimately invoke the jurisdiction of this Court under Article 226 of the Constitution of India. However, the fact of the matter is that without even bothering to file counter to the application for injunction, the petitioners rushed to this Court. Therefore, we are not inclined to entertain their prayer.

We are further of the view that the writ petition is liable to be dismissed because

copy of the plaint, which constitutes the foundation of the action initiated by the respondent, has not been annexed with the writ petition and without going through the contents thereof, we cannot determine whether the suit filed by the respondent is barred by Section 4 (2) of the Act.

For the reasons mentioned above, the writ petition is dismissed. However, liberty is given to the petitioners to file an appropriate application in the Court of Principal Senior Civil Judge, Ranga Reddy District for vacating ad interim order. They are also given liberty to raise a specific objection to the very maintainability of the suit filed by the respondent. We hope and trust that the concerned Court will decide any such application filed by the petitioners at the earliest but latest within 30 days of its submission.

If the decision of the Court concerned is adverse to the petitioners, they shall be free to avail appropriate legal remedy including by way of filing fresh writ petition.

G.S. SINGHVI, CJ

G. BHAVANI PRASAD, J

January 25, 2006

Ks / svs

Note:

A copy of this order be sent to the

Principal Senior Civil Judge, Ranga Reddy

District immediately.

(By order)

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